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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,535	12/05/2003	Ornan Gerstel	CISCP827	8291
26541	7590	06/20/2005	EXAMINER	
RITTER, LANG & KAPLAN P.O. BOX 2448 SARATOGA, CA 95070			SONG, SARAH U	
			ART UNIT	PAPER NUMBER
			2874	
DATE MAILED: 06/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary

Application No.

10/728,535

Applicant(s)

GERSTEL ET AL.

Examiner

Sarah Song

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 12-18 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0604.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The prior art documents submitted by the applicant in the Information Disclosure Statement filed on June 17, 2004 have all been considered and made of record (note the attached copy of form PTO-1449).

Drawings

2. Figure 1A and Figure 1B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because the drawings do not correspond with the written description. The specification contains reference to Figures 1A, 1B, 2, 3, 4A, 4B and 5. However, the Figures provided include Figures 1A, 1B, 2, 3, 4A, 4B, 5A, 5B and 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from

Art Unit: 2874

the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: The description of the drawings provided in the specification does not correspond with the Figures. It appears, that the description of Figure 2 seems to correspond with Figure 3; the description of Figure 3 seems to correspond with Figure 2; the description of Figure 4A seems to correspond with Figure 5A; the description of Figure 4B seems to correspond with Figure 5B; the description of Figure 5 seems to correspond with Figure 6; descriptions of Figure 4A and 4B appear to be omitted.

Appropriate correction is required.

Claim Objections

5. Claim 7 is objected to because of the following informalities: in line 5, Examiner suggests changing "ore" to —or—. Appropriate correction is required.

6. Claim 8 is objected to because of the following informalities: in line 5, Examiner suggests changing "ore" to —or—. Claims 9-11 also inherit the same objection by dependency.

Appropriate correction is required

Art Unit: 2874

7. Claim 12 is objected to because of the following informalities: in the last two lines, Examiner suggests inserting –said—before “one” both occurrences to distinguish between the two sets of signals; Examiner suggests changing “ore” to –or— in the last line. Appropriate correction is required.

8. Claim 13 is objected to because of the following informalities: in line 9, Examiner suggests changing “ore” to –or—. Appropriate correction is required

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

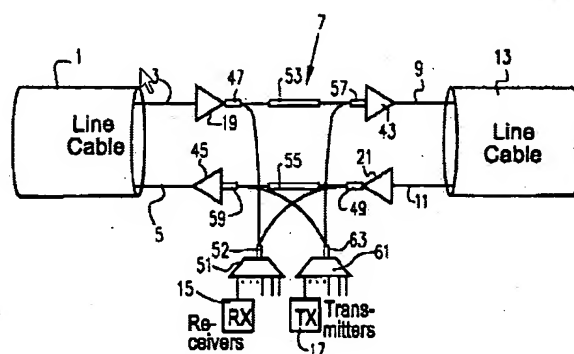
10. **Claims 12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sundelin (U.S. Patent 6,091,869).**

11. Regarding claim 12, Sundelin discloses, for an optical network having an optical fiber 3 carrying signals of a plurality of wavelengths, each wavelength defining a communication channel for said optical network, a combination comprising:

- a first amplifier stage 19 having an input terminal for connection to said optical fiber and an output terminal;

Art Unit: 2874

- a second amplifier stage 43 having an input terminal and an output terminal connected to said optical fiber; and
- a wavelength blocker unit 53 connected to said output terminal of said first amplifier stage and said input terminal of said second amplifier stage, said wavelength blocker unit preventing signals of one or more predetermined wavelengths from passing from said first optical amplifier input terminal to said second optical amplifier output terminal;
- whereby signals not of said one or more predetermined wavelengths are amplified in said optical fiber and signals of said one or more predetermined wavelengths are blocked. Column 4, lines 1-8.



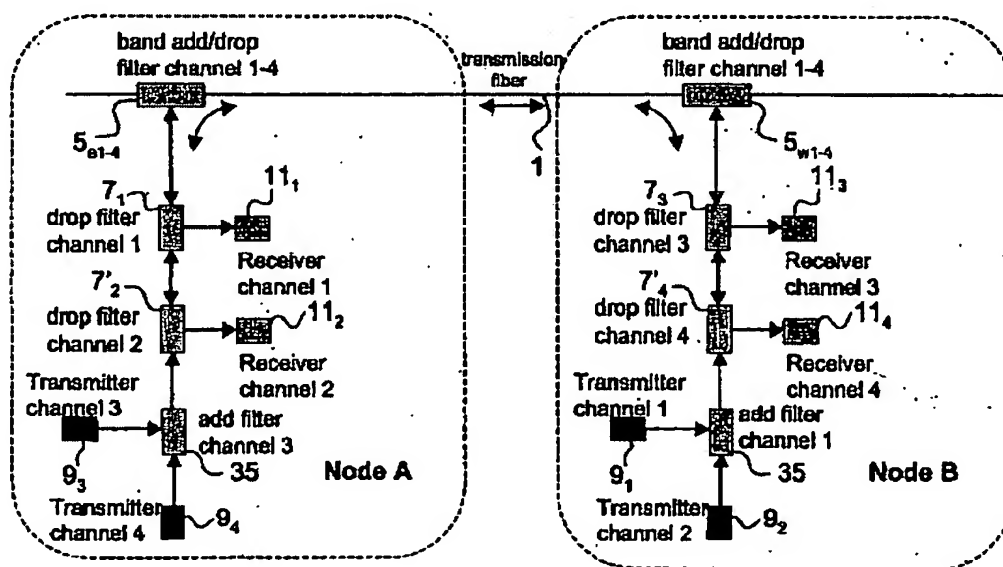
12. Regarding claim 17, Sundelin discloses an optical network comprising: a optical fiber carrying light signals of a plurality of wavelengths, each wavelength defining a communication channel for said optical network; a plurality of means 57 and 47 connected to and distributed along said optical fiber for inserting light signals of different wavelength into said optical fiber and for splitting said light signals of said plurality of wavelengths from said optical fiber; and a plurality of means 53 (corresponding to the plurality of nodes) connected to and distributed along said optical fiber for filtering out optical signals at selected wavelengths on said optical fiber and

Art Unit: 2874

distributed among groups of inserting 57 and splitting 47 means and numbering less than said plurality of inserting and splitting means (i.e. numbering half the inserting and splitting means).

13. **Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by Oberg et al. (U.S. Patent Application Publication 2003/0128984).**

14. Regarding claim 13, Oberg et al. discloses, for an optical network having an optical fiber carrying signals of a plurality of wavelengths, each wavelength defining a communication channel for said optical network, a combination comprising: a coupler 5_{e1-4} connected to said optical fiber 1, said coupler splitting signals of said plurality of wavelengths from said optical fiber; and a plurality of wavelength filters 7₁ and 7'₂ connected in a serial cascade arranged so that for any pair of wavelength filters, a wavelength filter 7₁ first receiving signals from said coupler diverting signals at one or more predetermined wavelengths to a first receiver 11₁ and transmitting signals at wavelengths other than said one or more predetermined wavelengths to a second wavelength receiver 7'₂, said second wavelength receiver diverting said transmitted signals at at least one or more wavelengths to a second receiver 11₂.



Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oberg et al.**

17. Regarding claims 14-16, Oberg et al. does not expressly disclose low-pass filters, high-pass filters or bandpass filters. The claimed filters are well known in the art and would have been obvious to one of ordinary skill in the art for the filters of Oberg et al. since applicant has not disclosed that the particular type of filter solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any type of wavelength filter.

18. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sundelin.**

19. Regarding claims 18, Sundelin does not expressly disclose that the number of channels passing through, channels added, channels dropped and local channels combine to total less than or equal to the total fiber capacity. However, it is commonly known to not exceed a system capacity in order to prevent failures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the total channels to be less than or equal the total capacity of the fiber in order to prevent communication failures.

Allowable Subject Matter

20. Claims 1-6 are allowed.

Art Unit: 2874

21. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose an optical network wherein a plurality of wavelength blocker units connected to said optical fiber, each wavelength blocker unit is distributed among groups of said pluralities of add and drop couplers so that each segment of said optical fiber between pairs of neighboring wavelength blocker units has at least three add and drop couplers.

The prior art of record discloses providing a wavelength blocker unit between a drop coupler and an add coupler of a node. Considering a network comprising a plurality of nodes, the resulting configuration would be one add coupler and one drop coupler (two couplers) between neighboring wavelength blocker units. The prior art of record does not reasonably suggest the modification to provide at least three add and drop couplers between neighboring wavelength blocker units. Therefore, claim 1 is allowable. Claims 2-6 are allowable as depending on claim 1. Claims 7-11, also depending from claim 1, would be allowable if rewritten to overcome the objections noted above.

Conclusion


22. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2874

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Song whose telephone number is 571-272-2359. The examiner can normally be reached on M-Th 7:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sarah Song
Patent Examiner
Group Art Unit 2874